

APPEAL NO. 022914
FILED JANUARY 3, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 14, 2002. The hearing officer determined that the compensable injury of _____, does not include a lumbar sprain/strain, protrusion of the L4-5 disc, acute anxiety, depression, bilateral lower extremity radiculopathy, left plantar fasciitis with fallen arch, the cervical spine, and the shoulders. The appellant (claimant) appeals the determination on sufficiency of the evidence grounds and asserts that the hearing officer erred by not allowing her the opportunity to call supporting witnesses. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in reaching the complained-of determination. The determination involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

As stated above, the claimant asserts reversible error in that she was not provided an opportunity to call witnesses in support of her claim at the hearing below. The claimant contends that she first became aware of the opportunity to call witnesses on her behalf, immediately prior to the commencement of the hearing. As such, the claimant contends she did not have an opportunity to present her case fully. Our review of the record reveals that the claimant was informed of her right to call witnesses on her behalf, at a prehearing conference on June 26, 2002, almost four months prior to the commencement of the hearing below. Nothing in our review of the record indicates that the claimant desired to provide additional witness testimony in support of her claim, nor was she prevented from doing so at the hearing. Accordingly, we find no grounds for reversing the hearing officer's decision.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE-HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge